

PART 1200—AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT

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Subpart A—General Provisions

§ 1200.1 Purpose of this regulation.

This part describes the processes by which Indian tribes can manage tribal funds currently held in trust by the United States. It defines how tribes may withdraw their funds from trust status; how they may return funds to trust; and how they may request technical assistance or grants to help prepare plans to manage funds or to ensure the capability to manage those funds.

§ 1200.2 Definitions.

As used in this part:

Act means the American Indian Trust Fund Management Reform Act of 1994 (Pub. L. 103-412, 108 Stat. 4239, 25 U.S.C. 4001).

Agency Superintendent means the official in charge of a Bureau of Indian Affairs Agency.

Area Director means the official in charge of a Bureau of Indian Affairs area office.

Bureau or *BIA* means the Bureau of Indian Affairs, Department of the Interior.

Department or *DOI* means the Department of the Interior.

General Counsel means the attorney for the tribe.

OST means the Office of the Special Trustee for American Indians, Department of the Interior.

OTFM means the Office of Trust Funds Management, Department of the Interior.

Resolution means the formal manner in which a tribal government expresses its legislative will.

Secretary means the Secretary of the Interior or his/her designee.

Solicitor means the Office of the Solicitor, Department of the Interior.

Special Trustee means the Special Trustee for American Indians appointed under title III of the Act.

Tribal council means the elected or appointed governing officials of any tribe which is recognized by the Secretary.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act which is federally recognized by the U.S. Government for special programs and services provided by the Secretary to Indians because of their status as Indians. For this purpose, it also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary. An example of this would be the KCA (consisting of the Kiowa, Comanche and Apache Tribes).

Us means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

We means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

§ 1200.3 What is the Department's policy on tribal management of trust funds?

(a) We will give tribes as much responsibility as they desire for the management of their tribal funds that we currently hold in trust.

(b) Title II of the American Indian Trust Fund Management Reform Act, implemented by these regulations, offers tribes one approach for assuming increased management of their funds that we now hold in trust and administer. Under title II, a tribe may completely remove its funds from Federal trust status and manage them as it wishes, subject to the requirements and conditions in this part. When a tribe withdraws its funds under this part, it may invest those funds in equities or other investment vehicles that are statutorily unavailable to us.

§ 1200.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?

Yes. The Tribal Self-Governance Act (25 U.S.C. 458) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) provide other options for trust funds management. A tribe may choose to manage its trust funds under the provisions of these Acts if it wishes. These options are covered by 25 CFR part 900 (the "Indian Self-Determination and Education Assistance Act Program") and 25 CFR part 1000 (the "Self-Governance Program").

§ 1200.5 What are the advantages and disadvantages of managing trust funds under the options in § 1200.4?

Under these other options, the funds remain in Federal trust status and the tribe can exercise a range of control over their management. However, the tribe has fewer investment options than it has when it withdraws its funds completely from trust status. If a tribe chooses to keep its funds in trust status, the tribe is subject to the same statutory investment restrictions that bind us. That means that the tribe's investments are limited to bank deposits and securities guaranteed by the United States. (See 25 U.S.C. 162a for specific statutory investment restrictions.)

§ 1200.6 Do these regulations tell tribes how to receive future income directly rather than have the government continue to collect it?

No. These regulations apply only to the withdrawal of funds which are in trust. Some of these funds come from the sale or lease of trust resources. Even if a tribe withdraws its funds, we will collect and manage future income. If a tribe wishes to receive future income directly, it should contact the OST/OTFM staff at its agency or area office to find out how to do this.

§ 1200.7 Information collection.

The information collection requirements contained in subpart B of this part, Application to Withdraw Tribal Funds from Trust Status and subpart D